

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIV- 19-cv-343-RAW
)	
GARY WAYNE KEELING,)	
)	
Defendant.)	

COMPLAINT

The United States of America, for its Complaint, alleges:

FACTS OF THE CASE

1. The mission of the United States Department of Education is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access. As a part of its mission, the Department of Education provides federal monies through a wide variety of grants.

2. Grant Public Schools (“GPS”) was a dependent public school system in Grant, Oklahoma, located in the Eastern District of Oklahoma.

3. Each year GPS received and spent federal funds from federal programs involving grants, contracts, subsidies, loans, guarantees, insurance and/or other forms of federal assistance. Specifically GPS received \$462,886.14 in 2011, \$388,647.75 in 2012, \$344,980.72 in 2013, \$292,692.24 in 2014, \$308, 936.16 in 2015, and \$324,362.77 in 2016.

4. GPS maintained contractual relationships with various vendors who provided goods and services to GPS in exchange for money. GPS maintained a process for paying vendors which required invoices be submitted to Pamela Keeling¹, the general office clerk and superintendent's secretary. Pamela Keeling's responsibilities included federal programs coordinator, accounts payable clerk, deputy treasurer, claims clerk, and payroll clerk. Pamela Keeling prepared checks for signatures and submitted the invoices and checks to the GPS Board of Education for signature.

5. Pamela Keeling created false invoices, which she purported to be legitimate, from GPS vendors. Pamela Keeling later inserted the false invoices into the regular stream of GPS accounts payable by the GPS Board of Education. Pamela Keeling and, upon information and belief, Gary Wayne Keeling, created false invoices from Cross K Supplies indicating that it had provided goods or services to GPS during the years 2014 to 2015 and then received checks from GPS payable to Cross K Supplies.

6. Cross K Supplies did not provide goods or services to GPS.

7. From January 22, 2014 to March 5, 2015 Gary Wayne Keeling, as proprietor of Cross K Supplies, received 16 checks from GPS totaling \$43,808.60.

8. Defendant, *via* his signature, knowingly endorsed each of the 16 checks. Further, Keeling knowingly cashed said checks and retained the money. At all relevant times, Keeling knew that Cross K Supplies did not supply goods or services to GPS.

9. The word "knowingly" as used in this Complaint is defined in the False Claims Act as "a person, with respect to information, who - (1) has actual knowledge of the information;

¹ Pamela Keeling is the mother of Defendant, Gary Wayne Keeling. She is deceased.

(2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information.” 31 U.S.C. § 3729(b).

10. This action seeks triple damages and civil money penalties under the False Claims Act based upon the false claims and false records or statements made or used by the Defendant in order to obtain payment for goods and services that were never provided. Alternatively, this action seeks damages for payment by mistake of fact, common law fraud, and unjust enrichment.

PARTIES

11. Plaintiff is the United States of America.

12. The Defendant Gary Wayne Keeling was the proprietor of Cross K Supplies. Keeling is a resident of Fort Towson, Oklahoma.

JURISDICTION AND VENUE

13. This Court has jurisdiction pursuant to 31 U.S.C. § 3732(a), 28 U.S.C. § 1391(b), and 28 U.S.C. § 1345.

14. Venue is proper in the Eastern District of Oklahoma under 28 U.S.C. § 1391(b) and 31 U.S.C. § 3732(a) because the conduct which gave rise to this complaint occurred here.

FIRST CAUSE OF ACTION FALSE CLAIMS ACT, 31 U.S.C. § 3729(a)(1)(G)

15. The United States re-alleges and incorporates the preceding paragraphs.

16. By virtue of the acts described above, the Defendant improperly retained payments by GPS, the authority administering federal education grant monies, based upon false or fraudulent claims in violation of the False Claims Act, 31 U.S.C. § 3729(a)(1)(G).

17. The United States suffered actual damages in an amount to be determined at trial and is entitled to treble damages and civil penalties under the False Claims False Claims Act, 31 U.S.C. § 3729 *et seq.* as amended.

SECOND CAUSE OF ACTION
FALSE CLAIMS ACT, 31 U.S.C. § 3729(a)(1)(B)

18. The United States re-alleges and incorporates the preceding paragraphs.

19. By means of the acts described above, the Defendant knowingly made or used, or caused to be made or used, a false record or statement which was submitted to GPS, the authority administering federal education grant monies, and that false record or statement, which was material to the monies obtained, caused payments that would otherwise have been denied.

20. The United States suffered actual damages in an amount to be determined at trial and is entitled to treble damages and civil penalties under the False Claims False Claims Act, 31 U.S.C. § 3729 *et seq.* as amended.

THIRD CAUSE OF ACTION
FRAUD

21. The United States re-alleges and incorporates the preceding paragraphs.

22. In the years 2014 and 2015, Defendant Keeling knowingly submitted invoices to and received checks from GPS payable to his company, Cross K Supplies, as payment for goods and services. In fact, Keeling knew or should have known that Cross K Supplies did not provide goods or services to GPS.

23. Keeling fraudulently concealed material facts intending to induce GPS to pay Cross K Supplies for goods and services that were not provided.

24. GPS relied upon Keeling's false representations and concealment of material facts, and as a result, was induced to pay federal monies to Defendant. As a result, the United States been damaged in an amount to be determined at trial.

FOURTH CAUSE OF ACTION
UNJUST ENRICHMENT

25. The United States re-alleges and incorporates the preceding paragraphs.

26. As a result of the conduct described above, the Defendant was paid federal funds to which he was not entitled.

27. In consequence of the acts set forth above, the Defendant has been unjustly enriched at the expense of the United States under circumstances directing that in equity and good conscious, the money should be returned to the United States.

FIFTH CAUSE OF ACTION
PAYMENT BY MISTAKE OF FACT

28. The United States re-alleges and incorporates the preceding paragraphs.

29. As a result of the conduct described above, the Defendant was paid federal educational grant monies that were not properly payable.

30. At the time such payments were made, the United States through GPS was not aware of the Defendant's wrongful conduct and factual misstatements. Had GPS or the Department of Education known that Cross K Supplies was not actually providing goods and services and that federal grant monies were being misappropriated, such funds would not have been paid. All such payments were made to the Defendant by mistake of fact.

31. As a consequence, the United States is entitled to recover those funds which were paid to Defendant by mistake of fact.

CONCLUSION

WHEREFORE, the United States prays that the Court grant judgment for the Plaintiff against the Defendant as follows:

1. For civil penalties for each false claim, pursuant to 31 U.S.C. § 3729(a);
2. For three times the amount of actual damages proved pursuant to 31 U.S.C. § 3729(a);
3. For damages proved for payments made under fraud, mistake of fact, or unjust enrichment; and
4. For reasonable attorney's fees, costs, and expenses incurred by the United States in prosecuting this action;
5. Post-judgment interest at the rates permitted by law; and
6. For such other and further relief as may be appropriate and authorized by law.

Respectfully,

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s/Jason Poe

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